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ALCATEL LUCENT

(FKA ALCATEL INTERNETWORKING, INC.)

INTELLECTUAL PROPERTY & STANDARDS

3400 W. PLANO PARKWAY, MS 1EGL2

PLANO, TX 75075

EXAMINER

HASHEM, LISA

ART UNIT

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/728,454	Applicant(s) SEE ET AL.	
	Examiner LISA HASHEM	Art Unit 2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on 06 February 2008.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-37 is/are pending in the application.

 4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) 1-37 is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) ☐ All b) ☐ Some * c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
 Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
 Paper No(s)/Mail Date _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments, see Amendment, filed 2-6-08, with respect to the rejection(s) of claim(s) 1-37 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made. Please see all rejection(s) below.

Claim Objections

2. Claims 1-37 are objected to because of the following informalities: the acronym 'IP' is not defined. Appropriate correction is required.

3. Claims 3, 18, 19, 21, 29, and 32-36 are objected to because of the following informalities: the acronym 'VLAN' is not defined. Appropriate correction is required.

4. Claims 14 and 26 are objected to because of the following informalities: the acronym 'IP PBX' is not defined. Appropriate correction is required.

5. Claims 30, 31, and 35 are objected to because of the following informalities: the acronym 'MAC' is not defined. Appropriate correction is required.

6. Claim 29 is objected to because of the following informalities: the acronym 'GARP' is not defined. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 13 and 30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 13 recites the limitation ‘...one or more devices may be determined from the IP address of the Voice-over-IP device...’. This limitation renders the claim indefinite because it is unclear if the device can be determined or not from the IP address. Appropriate correction is requested.

Claim 30 recites the limitation ‘...one or more devices may be determined from the MAC address of the Voice-over-IP device...’. This limitation renders the claim indefinite because it is unclear if the device can be determined or not from the MAC address. Appropriate correction is requested.

Claim Rejections - 35 USC § 112

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claim 11 recites the limitation "the physical locality" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

12. Claims 1-4, 11, 12, 15-17, 20, and 24 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. No. 6,804,254 by Pearce et al, hereinafter Pearce.

Regarding claim 1, Pearce discloses a system attribute exchange method for automatically providing at least one system attribute to one or more Voice-over-IP devices (Fig. 1: 22-24; VoIP telephony devices) (col. 3, line 66 – col. 4, line 10) in a network (Fig. 1; col. 1, lines 31-43; col. 2, line 61 – col. 3, line 19), the method comprising the steps of:

(a) automatically sending a Voice-over-IP device identification message (i.e. registration request including type of telephony device and device's IP and MAC addresses) (col. 7, lines 18-33) from the one or more Voice-over-IP devices (Fig. 1, 22) to a node (Fig. 1, 28: virtual telephony device) when the one or more Voice-over-IP device is operably coupled to the node (col. 4, lines 10-27; col. 6, line 56 – col. 7, line 33); and

(b) automatically responding with a device identification acknowledgment message (i.e. instruction) from the node to the one or more Voice-over-IP devices, the device identification acknowledgement message comprising one or more system attributes (i.e. port identifier) (col. 7, lines 34-67).

Regarding claim 2, the system attribute exchange method of claim 1, wherein Pearce discloses the device identification acknowledgment is a Voice-over-IP device identification acknowledgment message (col. 7, lines 34-49).

Regarding claim 4, the system attribute exchange method of claim 2, wherein Pearce discloses the node is a switching device (col. 6, line 56 – col. 7, line 17), and the one or more system attributes comprise a switching device identification as well as a port identification of a port to which the Voice-over-IP device is connected (col. 7, lines 34-54).

Regarding claim 11, the system attribute exchange method of claim 1, wherein Pearce discloses the system attribute comprises connectivity information associated with the physical locality of the one or more devices (col. 4, lines 11-19; col. 7, lines 18-54).

Regarding claim 12, the system attribute exchange method of claim 1, wherein Pearce discloses the system attribute comprises connectivity information pertaining to physical connection of the one or more Voice-over-IP devices at the node (col. 4, lines 11-19; col. 7, lines 18-54).

Regarding claim 15, the system attribute exchange method of claim 1, wherein Pearce discloses the node is a switching device (col. 6, line 56 – col. 7, line 33).

Regarding claim 16, the system attribute exchange method of claim 15, wherein Pearce discloses the switching device (Fig. 1, 28) is adjacent to at least one of the one or more devices (Fig. 1: 22-24) (col. 7, lines 18-22).

Regarding claim 17, the system attribute exchange method of claim 15, wherein Fangman discloses at least one of the one or more devices is a Voice-over-IP device (col. 3, line 66 – col. 4, line 10).

Regarding claim 20, Pearce discloses a system attribute exchange system in a distributed communications network (Fig. 1; col. 2, line 61 – col. 3, line 19) for automatically providing at least one system attribute for purposes of configuring Voice-over-IP communications (col. 1, lines 31-43; col. 3, line 66 – col. 4, line 10), the system comprising:

- (a) a Voice-over-IP device (i.e. VoIP telephony device; Fig. 1: 22-24; col. 3, line 66 – col. 4, line 10) adapted to automatically transmit a Voice-over-IP device identification message (i.e. registration request including type of telephony device and device's IP and MAC addresses) when said device is operatively coupled to the said network (col. 4, lines 10-27; col. 6, line 56 – col. 7, line 33); and
- (b) a node (Fig. 1, 28: virtual telephony device), operatively coupled to said network, adapted to automatically transmit a Voice-over-IP device identification acknowledgment message (i.e. instruction) to said device, said Voice-over-IP device identification acknowledgment message including one or more system attributes (i.e. port identifier) for said Voice-over-IP communications (col. 7, lines 34-67).

Regarding claim 24, the system attribute exchange system of claim 20, wherein Pearce discloses the at least one of the one or more system attributes is a port identifier of a port at said node to which the Voice-over-IP device is connected (col. 7, lines 34-54).

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claims 3, 5-10, 27, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearce, as applied to claim 2, and in further view of U.S. Pat. No. 6,781,989 by Acharya.

Regarding claim 3, the system attribute exchange method of claim 2, wherein Pearce does not disclose the one or more system attributes comprises a VLAN identification assigned to Voice-over-IP communications.

Acharya discloses a system attribute exchange method for automatically providing at least one system attribute to one or more Voice-over-IP devices (Fig. 1: 12, 14, 18, 20; devices) (col. 4, lines 5-21) in a network (i.e. IP based VLAN; col. 3, lines 27-31), the method comprising the steps of:

(a) automatically sending a Voice-over-IP device identification message (i.e. frames) (col. 10, lines 4-21) from the one or more Voice-over-IP devices (Fig. 1: 12, 14, 18, 20; device) to a node (Fig. 3, 510: network interface device; col. 5, lines 40-46) when the one or more Voice-over-IP device is operably coupled to the node (col. 4, lines 5-21; col. 11, lines 55-61); and
(b) automatically responding with a device identification acknowledgment message (i.e. VLAN assignment) from the node, the device identification acknowledgement message comprising one

or more system attributes (col. 2, lines 32-36; col. 3, lines 27-31; col. 11, lines 55-61; col. 12, lines 61-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Pearce to include one or more system attributes comprises a VLAN identification assigned to Voice-over-IP communications as taught by Acharya. In other words, one of ordinary skill in the art would have been lead to make such a modification of Pearce to include a VLAN identification, such as the VLAN identification of Acharya, to the acknowledgement message of Pearce so the first node of Pearce would know the VLAN identification the first node belongs to and include that identification with data frames. The benefit of providing the VLAN identification of Pearce was obvious and taught by Acharya: automatically communicate VLAN information to the first node with minimal delay.

Regarding claim 5, the system attribute exchange method of claim 3, wherein Pearce discloses the one or more Voice-over-IP devices comprise one or more IP phones (col. 1, lines 31-43; col. 3, line 66 – col. 4, line 10).

Regarding claim 6, the system attribute exchange method of claim 3, wherein Pearce discloses the Voice-over-IP device is operably coupled to the node at the time of initialization of the Voice-over-IP device (col. 7, lines 24-33).

Regarding claim 7, the system attribute exchange method of claim 3, wherein Acharya discloses the Voice-over-IP device identification message and the Voice-over-IP device identification acknowledgment are Attribute Advertisement Protocol messages (col. 10, lines 4-21).

Regarding claim 8, the system attribute exchange method of claim 7, wherein Acharya

discloses a destination address of the Voice-over-IP device identification message includes a unique medium access control (MAC) address indicative of a system attribute exchange between the Voice-over-IP device and node (col. 4, lines 55-63).

Regarding claim 9, the system attribute exchange method of claim 3, wherein Pearce discloses the Voice-over-IP device identification message is sent in response to a node initialization message (col. 7, lines 24-33).

Regarding claim 10, the system attribute exchange method of claim 9, wherein Pearce discloses the node initialization message (i.e. acceptance of telephony device registration) is a switching device initialization message transmitted by a switching device upon the initialization thereof (col. 7, lines 24-33).

Regarding claim 27, the system attribute exchange method of claim 8, wherein Acharya discloses the MAC address is a broadcast MAC address (col. 4, lines 55-63).

Regarding claim 28, the system attribute exchange method of claim 8, wherein Acharya discloses the MAC address is a multicast MAC address (col. 4, lines 55-63).

15. Claims 13, 14, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearce, as applied to claim 12, and in further view of Leung.

Regarding claim 13, the system attribute exchange method of claim 12, wherein Pearce does not disclose one or more system attributes are transmitted to a relation database that associates at least one port number to its geographic location, whereby the physical location of the one or more devices may be determined from the IP address of the Voice-over-IP device.

Leung discloses one or more system attributes are transmitted to a relation database (Fig. 8, 110; Fig. 10) that associates at least one port number to its geographic location (col. 3, lines 3-

19), whereby the physical location of one or more devices (Fig. 8, 109) may be determined from the IP address of a Voice-over-IP device (col. 8, lines 11-38; col. 9, line 57 – col. 10, line 14).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the method of Pearce to include a relation database as taught by Leung. One of ordinary skill in the art would have been lead to make such a modification to provide services for a VoIP device located in a VLAN.

Regarding claim 14, the system attribute exchange method of claim 13, wherein Leung discloses a storage device is included in an IP PBX system (Fig. 8, 110; Fig. 10) that cooperates with the Voice-over-IP device to provide voice communications (col. 8, lines 11-38; col. 9, line 57 – col. 10, line 14).

Regarding claim 30, the system attribute exchange method of claim 12, wherein Pearce does not disclose one or more system attribute are transmitted to a relation database that associates at least one port number to its geographic location, whereby the physical location of the one or more devices may be determined from the MAC address of the Voice-over-IP device.

Leung discloses one or more system attributes are transmitted to a relation database (Fig. 8, 110; Fig. 10) that associates at least one port number to its geographic location (col. 3, lines 3-19), whereby the physical location of one or more devices (Fig. 8, 109) may be determined from the MAC address of a Voice-over-IP device (col. 8, lines 11-38; col. 9, line 57 – col. 10, line 14).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the method of Pearce to include a relation database as taught by Leung. One of ordinary skill in the art would have been lead to make such a modification to provide services for a VoIP device located in a VLAN.

16. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearce, as applied to claim 17, and in further view of Acharya.

Regarding claim 18, the system attribute exchange method of claim 17, wherein Pearce does not disclose at least one of the one or more system attributes is a VLAN identification substantially dedicated to Voice-over IP communication within the network.

Acharya discloses a system attribute exchange method for automatically providing at least one system attribute to one or more Voice-over-IP devices (Fig. 1: 12, 14, 18, 20; devices) (col. 4, lines 5-21) in a network (i.e. IP based VLAN; col. 3, lines 27-31), the method comprising the steps of:

(a) automatically sending a Voice-over-IP device identification message (i.e. frames) (col. 10, lines 4-21) from the one or more Voice-over-IP devices (Fig. 1: 12, 14, 18, 20; device) to a node (Fig. 3, 510: network interface device; col. 5, lines 40-46) when the one or more Voice-over-IP device is operably coupled to the node (col. 4, lines 5-21; col. 11, lines 55-61); and
(b) automatically responding with a device identification acknowledgment message (i.e. VLAN assignment) from the node, the device identification acknowledgement message comprising one or more system attributes (col. 2, lines 32-36; col. 3, lines 27-31; col. 11, lines 55-61; col. 12, lines 61-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Pearce to include one or more system attributes comprises a VLAN identification assigned to Voice-over-IP communications as taught by Acharya. In other words, one of ordinary skill in the art would have been lead to make such a modification of Pearce to include a VLAN identification, such as the VLAN identification of Acharya, to the

acknowledgement message of Pearce so the first node of Pearce would know the VLAN identification the first node belongs to and include that identification with data frames. The benefit of providing the VLAN identification of Pearce was obvious and taught by Acharya: automatically communicate VLAN information to the first node with minimal delay.

Regarding claim 19, the system attribute exchange method of claim 18, wherein the Pearce in view of Acharya discloses a switching device is made aware of the VLAN identification via a VLAN registration protocol (Pearce: col. 7, lines 24-67; Acharya: col. 12, lines 30-33 and lines 43-50).

17. Claims 21-23 and 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearce, as applied to claim 20, and in further view of Acharya.

Regarding claim 21, the system attribute exchange system of claim 20, wherein Pearce does not disclose at least one system attribute includes a VLAN identification for over which Voice-over-IP communications are conducted.

Acharya discloses a system attribute exchange system in a distributed communications network (i.e. IP based VLAN; col. 3, lines 27-31) for automatically providing at least one system attribute for purposes of configuring Voice-over-IP communications (col. 3, lines 27-31): (a) a Voice-over-IP device (Fig. 1: 12, 14, 18, 20; device) adapted to automatically transmit a Voice-over-IP device identification message(i.e. frames) (col. 10, lines 4-21) when said device is operatively coupled to the said network (col. 4, lines 5-21; col. 11, lines 55-61); and (b) a node (Fig. 3, 510: network interface device; col. 5, lines 40-46), operatively coupled to said network, adapted to automatically transmit a Voice-over-IP device identification acknowledgment message (i.e. VLAN assignment) to said device, said Voice-over-IP device

identification acknowledgment message including one or more system attributes (i.e. port attribute) for said Voice-over-IP communications (col. 2, lines 32-36; col. 3, lines 27-31; col. 11, lines 55-61; col. 12, lines 61-67).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method of Pearce to include one or more system attributes comprises a VLAN identification assigned to Voice-over-IP communications as taught by Acharya. In other words, one of ordinary skill in the art would have been lead to make such a modification of Pearce to include a VLAN identification, such as the VLAN identification of Acharya, to the acknowledgement message of Pearce so the first node of Pearce would know the VLAN identification the first node belongs to and include that identification with data frames. The benefit of providing the VLAN identification of Pearce was obvious and taught by Acharya: automatically communicate VLAN information to the first node with minimal delay.

Regarding claim 22, the system attribute exchange system of claim 21, wherein Pearce discloses the Voice-over-IP device identification message is automatically transmitted when the Voice-over-IP device is operatively coupled to the network (col. 4, lines 10-19; col. 6, line 56 – col. 7, line 33).

Regarding claim 23, the system attribute exchange system of claim 22, wherein Pearce discloses the Voice-over-IP device identification message is automatically transmitted in response to a switching device initialization message sent upon the initialization of the switching device (col. 7, lines 24-33).

Regarding claim 37, the system attribute exchange system of claim 21, wherein Pearce discloses the Voice-over-IP device identification message is automatically transmitted when the Voice-over-IP device is initialized in the network (col. 4, lines 10-19; col. 7, lines 18-33).

18. Claims 25 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearce, as applied to claim 24, and in further view of Leung.

Regarding claim 25, the system attribute exchange system of claim 24, wherein Pearce does not disclose the port number at which the Voice-over-IP device is communicated to a relational database that associates the physical location of the port with the IP address and extension number of the Voice-over-IP device, whereby the location of a Voice-over-IP device user can quickly ascertained by emergency response personnel.

Leung discloses the port number at which a Voice-over-IP device is communicated to a relational database (Fig. 8, 110; Fig. 10) that associates the physical location of the port with the IP address and extension number of a Voice-over-IP device (Fig. 8, 109) (col. 3, lines 3-19), whereby the location of a Voice-over-IP device user can quickly ascertained by emergency response personnel (col. 8, lines 11-38; col. 9, line 57 – col. 10, line 14).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the system of Pearce to include whereby the location of a Voice-over-IP device user can be quickly ascertained by emergency response personnel as taught by Leung. One of ordinary skill in the art would have been lead to make such a modification to provide a port that can transmit a call with priority in an emergency situation.

Regarding claim 26, the system attribute exchange system of claim 25, wherein Leung discloses the system attribute exchange system further includes an IP PBX system (Fig. 8, 110; Fig. 10) comprising said relational database (col. 8, lines 11-38; col. 9, line 57 – col. 10, line 14).
19. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pearce in view of Acharya, as applied to claim 19, and in further view of Meier.

Regarding claim 29, the system attribute exchange method of claim 19, wherein Pearce in view of Acharya do not disclose the VLAN registration protocol is the GARP VLAN registration protocol.

Meier discloses a system attribute exchange method for automatically providing at least one system attribute to one or more devices in a network, the method comprising the steps of:
(a) automatically sending a device identification message from the one or more devices (Fig. 2: A4, A5, B4, B5) to a node (Fig. 2, VLAN Switch) when the device is operably coupled to the node (col. 6, lines 14-20); and
(b) automatically responding with a device identification acknowledgment message from the node to the one or more devices, the device identification acknowledgement message comprising one or more system attributes (col. 6, lines 42-64).

Wherein Meier discloses the VLAN registration protocol is the GARP VLAN registration protocol (col. 4, lines 34-43; col. 5, lines 26-63; col. 7, lines 33-59).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the method of Pearce in view of Acharya to include a GARP VLAN registration protocol as taught by Meier. One of ordinary skill in the art would have been lead to

make such a modification to provide a protocol that sends a 'join' message to devices to join an attribute group and support registration of a device.

20. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pearce, as applied to claim 24, and in further view of Leung.

Regarding claim 31, the system attribute exchange system of claim 24, wherein Pearce does not disclose the port number at which the Voice-over-IP device is communicated to a relational database that associates the physical location of the port with the MAC address and extension number of the Voice-over-IP device, whereby the location of a Voice-over-IP device user can quickly ascertained by emergency response personnel.

Leung discloses the port number at which a Voice-over-IP device is communicated to a relational database (Fig. 8, 110; Fig. 10) that associates the physical location of the port with the MAC address and extension number of a Voice-over-IP device (Fig. 8, 109) (col. 3, lines 3-19), whereby the location of a Voice-over-IP device user can quickly ascertained by emergency response personnel (col. 8, lines 11-38; col. 9, line 57 – col. 10, line 14).

It would have been obvious to one of the ordinary skill in the art at the time the invention was made to modify the system of Pearce to include whereby the location of a Voice-over-IP device user can be quickly ascertained by emergency response personnel as taught by Leung. One of ordinary skill in the art would have been lead to make such a modification to provide a port that can transmit a call with priority in an emergency situation.

21. Claims 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Acharya in view of Pearce.

Regarding claim 32, Acharya discloses a VLAN advertisement system (Fig. 1) for a voice-over-IP network (i.e. IP based VLAN; col. 3, lines 27-31), comprising: a first node (Fig. 1: 12, 14, 18, 20; device) (col. 4, lines 5-21); and a second node (Fig. 3, 510: network interface device; col. 5, lines 40-46) communicating with the first node (Fig. 1: 12, 14, 18, 20; device) over a LAN connection (Fig. 1, 10; col. 4, lines 5-21); wherein the first node transmits to the second node a first message (i.e. frames) (col. 10, lines 4-21) sufficient to identify the first node to the second node as an IP phone (i.e. node capability, mode of operation of the sending node; col. 10, lines 10-21), and wherein the second node generates a second message (i.e. VLAN assignment) responsive to the first message identifying a VLAN reserved for voice-over-IP communications (col. 2, lines 32-36; col. 3, lines 27-31; col. 11, lines 55-61; col. 12, lines 61-67).

Acharya discloses a voice-over-IP network. However, Acharya does not disclose the second node transmits to the first node a second message responsive to the first message.

Pearce discloses a LAN system for a voice-over-IP network (Fig. 1; col. 1, lines 31-43; col. 2, line 61 – col. 3, line 19), comprising: a first node (Fig. 1: 22; VoIP telephony device) (col. 3, line 66 – col. 4, line 19); and a second node (Fig. 1, 28: virtual telephony device) communicating with the first node (Fig. 1, 22) over a LAN connection (Fig. 1, 20; col. 7, lines 18-33); wherein the first node transmits to the second node a first message (i.e. registration request including type of telephony device and device's IP and MAC addresses) (col. 7, lines 18-33) sufficient to identify the first node to the second node as an IP phone (i.e. type of telephony device) (col. 7, lines 29-33), and wherein the second node transmits to the first node a second

message (i.e. instruction) responsive to the first message identifying a port reserved for voice-over-IP communications (col. 7, lines 34-67).

Again, Acharya discloses the claimed system except Acharya the second node generates a second message identifying a VLAN rather than the second node transmitting a second message in response to the first message. However, the claimed feature of transmitting a second message in response to the first message was old and well know in the art. Acharya clearly teaches such concept.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Acharya to include transmitting a second message in response to the first message to the first node as taught by Pearce. In other words, one of ordinary skill in the art would have been lead to make such a modification of Acharya to transmit a message, such as the instruction of Pearce, to the first node of Acharya so the first node of Acharya would know the VLAN identification the first node belongs to and include that identification with data frames. The benefit of providing the VLAN identification of Acharya was obvious and taught by Pearce: automatically communicate VLAN information to the first node with minimal delay.

Regarding claim 33, the VLAN advertisement system of claim 32, wherein Acharya discloses the first node appends the identified VLAN to packets transmitted by the first node in voice-over-IP communications (col. 4, lines 55-63).

Regarding claim 34, the VLAN advertisement system of claim 32, wherein Pearce discloses the first node automatically sends the first message when the first node is operably coupled to the second node (col. 7, lines 24-33).

Regarding claim 35, the VLAN advertisement system of claim 32, wherein Acharya discloses the first message includes a destination MAC address reserved for VLAN advertisement protocol exchanges (col. 4, lines 55-63).

Regarding claim 36, the VLAN advertisement system of claim 32, wherein Pearce discloses the second node is a LAN switch (Fig. 1, 28) (col. 6, line 56 – col. 7, line 33).

Double Patenting

22. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thornton*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

23. Claims 1-37 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-7 of copending Application No. 10/495,171 by Bastide (hereinafter '171 application). Although the conflicting claims are not identical, they are not patentably distinct from each other because:

It would be obvious to one of ordinary skilled in the art to utilize the method in claims 1-3, the non-data device in claims 4-6, and the dedicated server in claim 7 in the '171 application to disclose a system comprising '...a Voice-over-IP device adapted to automatically transmit a Voice-over-IP device identification message when said device is operatively coupled to the said network; and (b) a node, operatively coupled to said network, adapted to automatically transmit a Voice-over-IP device identification acknowledgment message to said device, said Voice-over-IP device identification acknowledgment message including one or more system attributes for said Voice-over-IP communications...', as in claims 1, 20, and 32 in the instant application.

For these reasons, independent claims 1, 20, and 32 are rejected. Claims 2-19, 21-31, and 33-37 are dependent of claims 1, 20, and 32 and are rejected on the ground of nonstatutory obviousness-type double patenting under the same reasons set forth in claims 1, 20, and 32.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See PTO-892 Form.

25. Any response to this action should be mailed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-8300 (for formal communications intended for entry)

Or call:

(571) 272-2600 (for customer service assistance)

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to LISA HASHEM whose telephone number is (571)272-7542. The examiner can normally be reached on M-F 8:30-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-2600.

27. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Fan Tsang/
Supervisory Patent Examiner, Art Unit 2614

/Lisa Hashem/
Examiner, Art Unit 2614
May 15, 2008